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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2010-278

11 **SAMI NAWWAR**
12 **1065 Sandhurst Drive**
13 **Vallejo, CA 94591**

A C C U S A T I O N

14 **Registered Nurse License No. RN 559252**

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
21 Department of Consumer Affairs.

22 2. On or about August 26, 1999, the Board issued Registered Nurse License Number
23 RN 559252 to Sami Nawwar (Respondent). The license was in full force and effect at all times
24 relevant to the charges brought herein and will expire on February 28, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code (Code) unless otherwise
28 indicated.

4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY / REGULATORY PROVISIONS

6. Code section 2761 states that the Board may take disciplinary action against a licensee for any of the following:

“(a) Unprofessional conduct, which includes, but is not limited to, the following:

“(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

“ . . . ”

7. California Code of Regulations, title 16, section 1442, defines “gross negligence,” as used in Code section 2761, as “an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.”

8. California Code of Regulations, title 16, section 1443, defines “incompetence,” as used in Code section 2761, as “the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.”

9. California Code of Regulations, title 16, section 1443.5 states:

“A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

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“(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.

“(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

“(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.

“(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.

“(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.

“(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided.”

COST RECOVERY

10. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 FACTUAL BACKGROUND

2 11. Between approximately 2003 and January 2008, Respondent was employed as a per
3 diem nurse at Kaiser Foundation Hospital in Vallejo, California. On or about December 30-31,
4 2007, while working the night shift in the hospital's telemetry unit, Respondent was assigned to
5 the care of four patients, including RP.¹ Patient RP was initially admitted to the hospital in
6 August 2007 for gallstone pancreatitis but had a prolonged hospitalization due to multiple
7 complications.² As of December 30, 2007, he was assessed as alert and oriented, but determined
8 to be at high risk for falls.

9 12. On or about December 30, 2007, RP's call light was not working; instead, he had
10 been given a bedside bell to ring for assistance. Shortly before or after midnight, RP got up out of
11 bed unassisted and fell. Respondent assessed him and documented a minor abrasion to RP's left
12 forearm, vitals stable, and MD notified. Respondent and another nurse returned RP to bed.
13 Respondent admonished RP not to get out of bed without requesting assistance.

14 13. At approximately 4:00 AM on or about the morning of December 31, 2007, RP again
15 left his bed unassisted and fell to the floor. Respondent did not assess RP, did not document the
16 fall, did not assist RP back to bed, did not notify a physician, did not complete required
17 paperwork reporting the fall, and prevented other nursing staff from assisting RP who remained
18 on the floor until a lift team arrived and returned him to bed. Respondent used profanity
19 throughout the aftermath of RP's fall.

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23 ¹ Initials are used to protect patient privacy; RP's full name will be provided upon request
24 in discovery.

25 ² Patient RP, a 58-year-old man, was admitted through the emergency department on or
26 around August 1, 2007, with an initial diagnosis of gallstone pancreatitis. Following an open
27 cholecystectomy (gall bladder removal), he developed a pancreatic pseudocyst (a collection of
28 fluid around the pancreas) and required tracheostomy (surgical insertion of an airway through an
incision in the trachea) following respiratory failure. Numerous bouts of aspiration pneumonia
necessitated multiple transfers to the intensive care unit. Patient RP eventually stabilized and was
discharged on or about January 29, 2008.

1 FIRST CAUSE FOR DISCIPLINE

2 (Gross Negligence and/or Incompetence: Failure to Assess/Notify)

3 14. Respondent is subject to disciplinary action under Code section 2761, subdivision
4 (a)(1), for gross negligence and/or incompetence in that he failed to assess his patient or notify a
5 physician after the patient fell to the floor, as described in paragraphs 11 through 13, above.

6 SECOND CAUSE FOR DISCIPLINE

7 (Incompetence: Failure to Advocate)

8 15. Respondent is subject to disciplinary action under Code section 2761, subdivision
9 (a)(1), for incompetence in that he failed to assist his patient following a fall, as described in
10 paragraphs 11 through 13, above.

11 THIRD CAUSE FOR DISCIPLINE

12 (Incompetence: Failure to Document/Report Incident)

13 16. Respondent is subject to disciplinary action under Code section 2761, subdivision
14 (a)(1), for incompetence in that he failed to document and/or report an incident in which his
15 patient fell to the floor, as described in paragraphs 11 through 13, above.

16 FOURTH CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct)

18 17. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
19 in that he conducted himself unprofessionally in the aftermath of his patient's fall by using
20 profanity and intimidation in the workplace, as described in paragraphs 11 through 13, above.

21 PRAYER

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23 and that following the hearing, the Board of Registered Nursing issue a decision:


24 1. Revoking or suspending Registered Nurse License Number RN 559252, issued to
25 Sami Nawwar;

26 2. Ordering Sami Nawwar to pay the Board of Registered Nursing the reasonable costs
27 of the investigation and enforcement of this case, pursuant to Business and Professions Code
28 section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 11/25/09


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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